

§ 404.1024 Election of coverage by religious orders.

A religious order whose members are required to take a vow of poverty, or any autonomous subdivision of that religious order, may elect to have social security coverage extended to the work performed by its members in the exercise of duties required by that order or subdivision. The rules on the election of coverage by these religious orders are described in 26 CFR 31.3121(r). The rules on determining the wages of members of religious orders for which an election of coverage has been made are described in § 404.1046.

§ 404.1025 Work for religious, charitable, educational, or certain other organizations exempt from income tax.

(a) *After 1983.* Work done after 1983 by an employee in the employ of a religious, charitable, educational, or other organization described in section 501(c)(3) of the Code which is exempt from income tax under section 501(a) of the Code is covered as employment unless the work is for a church or church-controlled organization that has elected to have services performed by its employees excluded (see § 404.1026). (See § 404.1059(b) for special wage rule.)

(b) *Before 1984.* Work described in paragraph (a) of this section which was done before 1984 is excluded from employment. However, the exclusion does not apply to work done during the period for which a form SS-15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contributions Act, was filed (or was deemed to have been filed) with the Internal Revenue Service.

[50 FR 36573, Sept. 9, 1985]

§ 404.1026 Work for a church or qualified church-controlled organization.

(a) *General.* If you work for a church or qualified church-controlled organization, as described in this section, your employer may elect to have your services excluded from employment. You would then be considered to be self-employed and special conditions would apply to you. See § 404.1068(f) for those special conditions. The employer's election of the exclusion must be made with the Internal Revenue Service

in accordance with Internal Revenue Service procedures and must state that the church or church-controlled organization is opposed for religious reasons to the payment of Social Security employment taxes. The exclusion applies to current and future employees. If you work in an unrelated trade or business (within the meaning of section 513(a) of the Code) of the church or church-controlled organization, the exclusion does not apply to your services.

(b) *What is a church.* For purposes of this section the term *church* means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

(c) *What is a qualified church-controlled organization.* For purposes of this section the term *qualified church-controlled organization* means any church-controlled organization exempt from income tax under section 501(c)(3) of the Code but does *not* include an organization which:

(1) Offers goods, services, or facilities for sale to the general public, other than on an incidental basis, or for other than a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

(2) Normally receives more than 25 percent of its support from either governmental sources or receipts from admissions, sales of merchandise, performance of services or furnishing of facilities other than in an unrelated trade or business, or both.

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§ 404.1027 Railroad work.

We exclude from employment any work you do as an employee or employee representative as described in the Railroad Retirement Tax Act. However, railroad compensation can be counted for social security purposes under the conditions described in subpart O of this part.

§ 404.1028 Student working for a school, college, or university.

(a) For purposes of this section, a *school, college, or university* has its